

S  
353.4  
L72jb  
1982

PLEASE RETURN

STATE DOCUMENTS COLLECTION

DEC 28 1982

MONTANA STATE LIBRARY

Helena, Montana 59601

STATE OF MONTANA  
Report to the Legislature  
THE JUDICIAL BRANCH  
Report on the Examination of  
the Financial Statements  
Two Fiscal Years Ended June 30, 1982



OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MONTANA  
STATE CAPITOL • HELENA



STATE OF MONTANA

Report to the Legislature

THE JUDICIAL BRANCH

Report on the Examination of  
the Financial Statements

Two Fiscal Years Ended June 30, 1982

Montana State Library



3 0864 1004 7863 8

## TABLE OF CONTENTS

	<u>Page</u>
Elective and Administrative Officials	iii
Summary of Recommendations	iv
Introduction	1
Background	1
Internal Controls	3
Montana Judges' Retirement System	5
Funding Level	5
Recording Revenues and Expenditures	7
Revenue	8
Clerk of the Supreme Court	8
State Law Library	9
Increased Cost of Bar Exam	10
Statutory Inconsistency	11
Internal Control Issues	12
Property, Plant, and Equipment	12
Supervisory Reviews	13
Payroll and Leave Records	14
Mathematical Accuracy of Leave Balances	14
Proper Approval of Time Summaries	16
Compliance Issues	17
Collection of Appellant Fees	17
Timely Deposits	17
Prior Audit Recommendations	18

## TABLE OF CONTENTS (Continued)

	<u>Page</u>
Auditor's Report and Financial Statements	
Auditor's Report	20
Financial Statements	
Balance Sheet - All Funds and Account Groups - June 30, 1982	22
Combined Statement of Revenues, Expenditures, and Changes in Fund Balance - Budget and Actual - General and Special Revenue Fund Types for the Fiscal Year Ended June 30, 1982	23
Combined Statement of Revenues, Expenditures, and Changes in Fund Balance - Budget and Actual - General and Special Revenue Fund Types for the Fiscal Year Ended June 30, 1981	24
Notes to the Financial Statements	25
Schedule of Subgrant Receipts	31
Agency Response	32

ELECTIVE AND ADMINISTRATIVE OFFICIALS

JUDICIAL BRANCH

STATE OF MONTANA

Supreme Court

Frank I. Haswell  
Gene B. Daly  
John C. Harrison  
Frank B. Morrison  
Daniel J. Shea  
John C. Sheehy  
Fred J. Weber

Chief Justice  
Associate Justice  
Associate Justice  
Associate Justice  
Associate Justice  
Associate Justice  
Associate Justice

Michael Abley

Court Administrator

Thomas J. Kearney

Clerk of the Supreme Court

Claire Engel

State Law Librarian

## SUMMARY OF RECOMMENDATIONS

As a separate section in the front of each audit report we include a listing of all recommendations together with a notation as to whether the agency concurs or does not concur with each recommendation. This listing serves as a means of summarizing the recommendations contained in the report and the audited agency's reply thereto and also as a ready reference to the supporting comments. The full reply of the Judicial Branch is included in the back of this report.

	<u>Page</u>
1A Work with PERD to develop a funding formula which will maintain the retirement system on a actuarially sound basis.	7
<u>Agency Reply:</u> Concur. See page 33.	
1B Legislation be enacted to adequately fund the Judges' Retirement System.	7
<u>Agency Reply:</u> Concur. See page 33.	
2 Legislation be enacted to ensure that revenue and costs associated with the Judges' Retirement System are properly recorded by the Judicial Branch.	8
<u>Agency Reply:</u> Concur. See page 33.	
3A Transfer all moneys from the application fees for fiscal year 1982 that have been deposited to the Retirement System to the General Fund.	9
<u>Agency Reply:</u> Concur. See page 33.	
3B Deposit all application fees for admission to the bar as provided by law.	9
<u>Agency Reply:</u> Concur. See page 33.	
3C Continue to deposit attorney license tax revenue in the General Fund.	9
<u>Agency Reply:</u> Concur. See page 33.	
4 Properly record fees collected for photocopies as revenue.	10
<u>Agency Reply:</u> No Response. See page 33.	



SUMMARY OF RECOMMENDATIONS (Continued)

	<u>Page</u>
5 Court Administrator evaluate the costs incurred by the Board of Bar Examiners.	11
<u>Agency Reply:</u> Concur. See page 33.	
6 Legislation be enacted to repeal the sections establishing the bar exam fee amounts.	11
<u>Agency Reply:</u> Concur. See page 33.	
7A Record all fixed assets on PAMS.	13
<u>Agency Reply:</u> Concur. See page 33.	
7B Assign property numbers to all fixed assets and affix tags to these items.	13
<u>Agency Reply:</u> Concur. See page 33.	
7C Record the location of each item and document all subsequent location changes.	13
<u>Agency Reply:</u> Concur. See page 33.	
8 Establish adequate procedures for independent review of accounting transactions.	14
<u>Agency Reply:</u> Concur. See page 33.	
9A Verify the mathematical accuracy of employee leave records.	15
<u>Agency Reply:</u> Concur. See page 33.	
9B Confirm with each employee the amount of leave credits accrued and used at least once a year.	15
<u>Agency Reply:</u> Concur. See page 33.	
10A Enforce its policy that every non-elected employee submit a signed and approved time summary.	16
<u>Agency Reply:</u> Concur. See page 34.	
10B Maintain all leave records centrally.	16
<u>Agency Reply:</u> Concur. See page 34.	

SUMMARY OF RECOMMENDATIONS (Continued)

	<u>Page</u>
11 Comply with the statutes and collect appellant fees in advance.	17
<u>Agency Reply:</u> Concur. See page 34.	
12 Deposit collections in accordance with state law.	18
<u>Agency Reply:</u> Concur. See page 34.	

## INTRODUCTION

We performed a financial/compliance audit of the Judicial Branch for fiscal years 1980-81 and 1981-82. The objectives of the audit were to: 1) determine if the financial statements present fairly its financial position and results of operations for the two fiscal years ending June 30, 1982; 2) determine if the Judicial Branch complied with applicable laws and regulations; and 3) make recommendations for improvements in management and internal controls.

In accordance with section 5-13-307, MCA, we analyzed the costs of implementing the recommendations made in this report. Each report section discloses the cost, if significant, of implementing the recommendation.

We thank the Judicial Branch staff for their cooperation and assistance during the audit.

## BACKGROUND

The Constitution of the State of Montana, as adopted by the Constitutional Convention, March 22, 1972, and ratified by the people June 6, 1972, vests the judicial power of the state in one Supreme Court, district courts, justice courts, and such other courts as may be provided by law. The Supreme Court consists of one Chief Justice and six Associate Justices; has appellate jurisdiction, and may issue, hear, and determine appropriate writs. The Supreme Court also has general supervisory control over all other courts and may make rules governing appellate practice and procedure for all other courts, admission to the bar, and conduct of its

members. The rules of procedure are subject to approval by the Legislature in either of the two sessions following promulgation.

Supreme Court Justices and District Court Judges are elected to office on a non-partisan ballot. Their terms of office and the procedure for filling vacancies on the Court are established in the Constitution and by statute. Salaries for the Justices and District Court Judges are determined by the Legislature.

The Judicial Branch consists of the Supreme Court, Court Administrator, Clerk of Court, State Law Library, and the water courts.

The Chief Justice is the head of the Judicial Branch. The Court Administrator is appointed by the Supreme Court as the administrative officer. The Court has authority to determine its own internal procedures and policies. The Court, State Law Library, and Clerk of the Supreme Court are located in the Capitol. The Court Administrator is located in the Mitchell Building. At the completion of our audit, the Judicial Branch was preparing to move to the new Justice building.

The Judicial Branch has been divided into five programs for fiscal management.

1. The Supreme Court Operations Program is responsible for the operation of the Supreme Court itself.
2. The Boards and Commissions Program records expenditures for the boards and commissions established either by statute or the Supreme Court to perform various services required to support the judiciary within the state of Montana.
3. The Law Library Program is responsible for the operation of the State Law Library of Montana. The Library is maintained for use by members of the Supreme Court,

Legislature, state officials, and state employees. The Library is also available to members of the bar and the general public.

4. The District Court Operations Program is used to record the payment of salaries and travel expenses for District Court Judges.
5. The Water Courts Supervision Program records expenditures of the water courts.

The 1979 Legislature amended the Montana Water Use Act to provide water adjudication procedures. The amendment created the Montana Water Courts. Until fiscal year 1981-82, the Courts were a part of the Department of Natural Resources and Conservation. The 1981 Legislature further amended this act to transfer the Water Courts operation to the Judicial Branch on July 1, 1981. The Water Courts office is located in Bozeman.

#### INTERNAL CONTROLS

We have examined the financial statements of the Judicial Branch for the two fiscal years ended June 30, 1982. We issued our opinion dated September 17, 1982 on these statements. As part of our examination, we made a study and evaluation of the system of control of the Judicial Branch. Our study evaluated the system as required by generally accepted governmental auditing standards for financial and compliance audits. We classified the controls in the following categories:

1. revenue/receipts;
2. payroll;
3. expenditures; and
4. plant, property, and equipment.

Our study included the control categories listed above. Through our study, we determined the nature, timing, and extent of our auditing procedures. We did not evaluate the control system to the extent necessary to give an opinion on either individual segments or the system as a whole.

The management of the Judicial Branch is responsible for establishing and maintaining a system of accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable assurance that: 1) assets are safeguarded against loss from unauthorized use or disposition; 2) transactions are executed in accordance with management's authorization; and 3) transactions are recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Inherent limitations in any system of controls may cause errors or irregularities to remain undetected. The current system evaluation should not be used to project to future periods since the procedures may become inadequate or compliance with them deteriorate.

The limited purpose of our study described in the first paragraph would not necessarily disclose all material weaknesses in the system. Accordingly, we do not express an opinion on the system of controls used by the Judicial Branch. However, our study disclosed the weaknesses discussed on pages 11 through 13.

These conditions were considered in determining the nature, timing, and extent of the audit tests of the financial statements and this report does not affect our report on the financial statements.

The preceding four paragraphs are intended solely for the use of management and the Legislature and should not be used for any other purpose. This restriction as to use is not intended to limit the distribution of this document which, upon issuance to the Legislative Audit Committee, is a matter of public record.

### MONTANA JUDGES' RETIREMENT SYSTEM

#### Funding Level

Supreme Court Justices and District Court Judges are members of the Montana Judges' Retirement System (MJRS). This retirement system was established in 1967. The system has 37 contributing members, 2 members with vested rights, and 14 beneficiaries. Two judges elected to stay with the Public Employees' Retirement System (PERS) when the Montana Judges' Retirement System was initiated.

The footnotes to the agency's June 30, 1982, financial statements reflect a \$5,561,446 long-term liability of the agency. This amount represents the unfunded liability for the Montana Judges' Retirement System as determined by the system's actuary as of June 30, 1982. The unfunded liability is a real liability to the Judicial Branch because the benefits payable to the judges are outlined in Montana's statutes (sections 19-5-501 through 19-5-705, MCA).

The unfunded accrued liability is the excess of the present value of total liabilities for benefit payments over the present assets of the fund and the present value of expected future contributions to the fund. In order to maintain the fund on an actuarially sound basis, the rate of contributions should be such as to meet the normal costs of the system in addition to making progress towards the amortization of the unfunded liability.

The actuarial valuation as of June 30, 1982, determined the percentage of each member's salary required to fund benefits as they accrue in the future is 33.40 percent. An additional 11.94 percent is required to amortize the unfunded past service liability of \$5,561,446 over a period of 40 years. The total recommended contribution rate is 45.34 percent.

Currently, the regular contribution rate for funding the Montana Judges' Retirement System is 33 percent of each active judges' salary. This rate is comprised of 6 percent from the member, 6 percent from the state General Fund, an amount equal to 20 percent of the judges' salaries from District Court fees, and approximately 1 percent from fees collected by the Supreme Court. This amount is 12.34 percent less than recommended and is not sufficient to amortize the unfunded liability in future years. The contribution rate is established by law.

The agency should work with Public Employees' Retirement Division (PERD) of the Department of Administration to develop a funding formula which will maintain the system on an actuarially sound basis.



## RECOMMENDATION #1

### WE RECOMMEND:

- A. THE JUDICIAL BRANCH WORK WITH PERD TO DEVELOP A FUNDING FORMULA WHICH WILL MAINTAIN THE RETIREMENT SYSTEM ON AN ACTUARIALLY SOUND BASIS.
- B. LEGISLATION BE ENACTED TO ADEQUATELY FUND THE JUDGES' RETIREMENT SYSTEM.

### Recording Revenues and Expenditures

The Judicial Branch receives money from District Court fees and Supreme Court fees. By statute, part of these moneys are directed to fund the Montana Judges' Retirement System (MJRS). The Judicial Branch transfers these funds directly to the Public Employees' Retirement Division (PERD) of the Department of Administration for the MJRS.

As a result of the direct transfer, revenue of \$279,189 for 1981 and \$305,843 for 1982 was not recorded by the Judicial Branch. Also, the corresponding cost of the retirement system to the Judicial Branch was not recorded. This results in pension costs being understated in fiscal years 1981 and 1982 by \$279,189 and \$305,843, respectively. The accounting treatment for these moneys is in accordance with the wording in section 3-2-404 and section 19-5-404, MCA.

The Montana Judges' Retirement System was established for District Court Judges and Supreme Court Justices. Because both judges and justices are employees of the Judicial Branch the revenue

for and costs of their retirement system should be accounted for by the Judicial Branch. Revenues and expenditures on the accompanying financial statements have been adjusted for the above-stated amounts.

#### RECOMMENDATION #2

WE RECOMMEND LEGISLATION BE ENACTED TO ENSURE THAT REVENUE AND COSTS ASSOCIATED WITH THE JUDGES' RETIREMENT SYSTEM ARE PROPERLY RECORDED BY THE JUDICIAL BRANCH.

#### REVENUE

The Judicial Branch collects revenue from attorneys, the court system, and copy fees in the State Law Library. During our audit we noted problems with the recording, distribution, and amounts collected by the Judicial Branch. These are discussed in the following sections.

##### Clerk of the Supreme Court

The audit report for fiscal years 1978-79 and 1979-80 recommended the Clerk of the Supreme Court deposit collections in accordance with section 37-61-205, MCA, which states all moneys collected for applications to the bar, by examination or otherwise, shall be deposited in the General Fund.

Application fees for admission to the bar by examination or otherwise and attorney license tax revenue were distributed three-fourths to the General Fund and one-fourth to the Montana Judges' Retirement System in fiscal year 1981. In fiscal year 1982 license

tax was distributed 100 percent to the General Fund. However, fees for admission to the bar are still distributed three-fourths to the General Fund and one-fourth to the retirement system.

### RECOMMENDATION #3

WE RECOMMEND THE CLERK OF THE SUPREME COURT'S OFFICE:

- A. TRANSFER ALL MONEYS FROM THE APPLICATION FEES FOR FISCAL YEAR 1982 THAT HAVE BEEN DEPOSITED TO THE RETIREMENT SYSTEM TO THE GENERAL FUND.
- B. DEPOSIT ALL APPLICATION FEES FOR ADMISSION TO THE BAR AS PROVIDED BY LAW.
- C. CONTINUE TO DEPOSIT ATTORNEY LICENSE TAX REVENUE IN THE GENERAL FUND.

### State Law Library

Many volumes in the library are not available for circulation. When users need material from these volumes photocopies are made. If the copies are made for other than state agencies, a fee is charged. The fees collected more than recover the costs of the copies.

The library is presently abating these fees against copy machine expenditures instead of recognizing them as revenue. This accounting treatment resulted from a recommendation made in the fiscal years 1978-79 and 1979-80 audit report. However, this abatement does not meet the criteria established in state accounting policy. This policy defines expenditure abatements as amounts

erroneously expended. The result of this abatement is an unauthorized increase of appropriation authority and an understatement of expenditures and revenues. These abatements amounted to \$4,496 in fiscal year 1981 and \$4,934 in fiscal year 1982. Revenues and expenditures have been adjusted in the accompanying financial statements.

#### RECOMMENDATION #4

WE RECOMMEND THE STATE LAW LIBRARY PROPERLY RECORD FEES COLLECTED FOR PHOTOCOPIES AS REVENUE.

#### Increased Cost of Bar Exam

Fees for the bar examination have increased from \$25 to \$400 in the past two years. During our audit we performed an analysis to determine if the increase in examination fees was reasonable.

Expenditures incurred by the Board of Bar Examiners for preparing, giving, and grading the exam were \$26,864 in fiscal year 1982. Seventy-four applicants took the examination in 1982; thus, the cost per examinee averaged \$360.

The costs incurred by the board for preparing, giving, and grading the exam are itemized as follows:

1. Consultant and professional services of \$20,246. Included in this category are over 200 hours of secretarial services at \$25 per hour, 11 graders per exam reimbursed at \$300 each, \$200 per question with answer paid to individuals submitting questions used in the exam.
2. Travel, meals, and lodging expense for board members and graders of \$4,250.
3. Supplies and materials cost \$1,575.
4. Miscellaneous expense of \$793.

The \$400 application fee to take the exam will cover these costs in the future. While all the above costs are supported by invoices some of the costs appear to be questionable. For example, the \$25 per hour charged for secretarial services appears excessive. We contacted 3 secretarial service agencies whose fees ranged from \$10 to \$15 per hour depending on the complexity of the job. The Judicial Branch currently does not review the reasonableness of the costs incurred by the board.

#### RECOMMENDATION #5

WE RECOMMEND THE COURT ADMINISTRATOR EVALUATE THE COSTS INCURRED BY THE BOARD OF BAR EXAMINERS.

#### Statutory Inconsistency

There is an inconsistency between what state law establishes as the fee for the bar exam and what is being charged. Section 37-61-205, MCA, sets bar exam fees at \$25. The constitution grants the Supreme Court the authority to establish the bar exam fees. Supreme Court Order 80-120 filed February 11, 1981, raised the bar examination fee to \$125; subsequently, Court Order 80-120 filed April 19, 1982, raised the fee for the bar exam to \$400.

#### RECOMMENDATION #6

WE RECOMMEND LEGISLATION BE ENACTED TO REPEAL THE SECTIONS ESTABLISHING THE BAR EXAM FEE AMOUNT.

## INTERNAL CONTROL ISSUES

Good internal controls are necessary to ensure only authorized transactions are recorded, assets are safeguarded against loss or improper disposition, and records are adequate for financial statement preparation. The following weaknesses in controls were noted during our audit of the Judicial Branch.

### Property, Plant, and Equipment

State policy requires all state agencies to account for state-owned property, plant, and equipment with a value in excess of \$200 and a useful life of greater than one year on the Property Accountability and Management System (PAMS). We reviewed the PAMS listing for the Judicial Branch dated June 30, 1982 and noted fifteen property items with an aggregate value of \$15,541 listed. The agency maintains a handkept inventory list of fixed assets and their valuation. Using this list we determined that assets over \$200 had a total valuation of \$127,755. Since the agency began recording some of their property on PAMS, they should be consistent and record all their property on PAMS. The agency adjusted its financial statements for the misstatement.

In performing the review of plant, property, and equipment, a majority of the property items observed had no property tags or assigned property number. In order to effectively manage property and equipment it should be readily identifiable.

The location of a number of items was different than the location recorded on the inventory list. Inaccurate location information hampers the effective management of assets and weakens internal control. The Judicial Branch has no procedure for documenting location changes.

The agency stated these problems were caused by the following: 1) property accounting was low on their priority list, and 2) they lack personnel to compile the required information. Because the agency will be moving to new quarters with substantial additions to their present property, plant, and equipment, adequate controls over fixed assets are essential.

#### RECOMMENDATION #7

WE RECOMMEND THE JUDICIAL BRANCH:

- A. RECORD ALL FIXED ASSETS ON PAMS.
- B. ASSIGN PROPERTY NUMBERS TO ALL FIXED ASSETS AND AFFIX TAGS TO THESE ITEMS.
- C. RECORD THE LOCATION OF EACH ITEM AND DOCUMENT ALL SUBSEQUENT LOCATION CHANGES.

#### Supervisory Reviews

During the course of our audit we noted several conditions which, when considered together, reflect a lack of supervisory review over financial transactions.

In reviewing transactions processed through the Statewide Budgeting and Accounting System (SBAS), we noted several errors on SBAS input documents. Expenditure transactions contained errors in classifying the nature of the expenditure. Also, supporting invoices did not match the expenditure amount input on SBAS. There were several transactions processed where the improper amount of revenue was deposited to the General Fund. These transactions were subsequently corrected to reflect the proper distribution of revenues.

The conditions noted above are due to a lack of review by someone independent of the preparation of SBAS documents. With proper review the errors identified could have been avoided. Such a review is helpful in detecting and correcting errors made when a document is originally prepared. Implementation of review procedures will not cost the Judicial Branch because three persons currently employed are qualified to review SBAS documents.

#### RECOMMENDATION #8

WE RECOMMEND THE COURT ADMINISTRATOR ESTABLISH ADEQUATE PROCEDURES FOR INDEPENDENT REVIEW OF ACCOUNTING TRANSACTIONS.

#### PAYROLL AND LEAVE RECORDS

The main purpose of the Judicial Branch is to serve the public by rendering legal decisions. As with any organization which provides a service the main expenditure of the Judicial Branch is salary and wage expense. In fiscal year 1982 payroll expenditures were \$2,320,012. In order to ensure only valid payroll expenses are paid it is necessary to have strong internal controls. The following weaknesses were noted in the Judicial Branch payroll system.

##### Mathematical Accuracy of Leave Balances

We checked the accuracy of leave records, and found balances were overstated for two employees. Also, a negative leave balance was noted in an employee's compensatory time record. The compensatory time off was taken in excess of the amount earned to that



date. The errors were not detected because the agency has no procedure for checking leave records for math accuracy or for verifying balances with employees.

The Montana Operations Manual states vacation and sick leave should be verified with employees at least once a year. Since new employee leave records are created at the beginning of each calendar year, this provides the agency an opportunity to check leave records for mathematical accuracy. At the same time they could verify leave balances with employees. At the present time, employees verify leave balances only when they initiate the request.

The Judicial Branch does not require the use of leave requests to support leave taken. Because the agency is divided into several small divisions, it is good procedure to require leave requests since the employees' time summaries must pass through the payroll clerk who is not aware of every employee's activities.

Accurate leave accounting is essential to ensure employees receive the proper leave benefits provided by the state and to ensure the state only pays for those benefits that have been earned.

#### RECOMMENDATION #9

WE RECOMMEND THE JUDICIAL BRANCH:

- A. VERIFY THE MATHEMATICAL ACCURACY OF EMPLOYEE LEAVE RECORDS.
- B. CONFIRM WITH EACH EMPLOYEE THE AMOUNT OF LEAVE CREDITS ACCRUED AND USED AT LEAST ONCE A YEAR.

### Proper Approval of Time Summaries

Prior auditors recommended and the agency concurred that all non-elected employees be required to file a signed and approved time summary at the end of each pay period. In order to comply with this recommendation the agency initiated a new time summary that included a line for the supervisor's authorizing signature.

We found that only employees from the Court Administrator's Office and the State Law Library submit time summaries that are properly approved. In the Supreme Court Office neither the law clerks nor the secretaries have their time summaries approved. The employees in the Clerk of the Supreme Court's Office also do not submit properly approved time summaries.

We observed payroll procedures at the Clerk of Court's Office and also noted that the Deputy Clerk of Court does not submit a biweekly time summary and keeps his own leave records. All other leave records are maintained by the payroll clerk at the Court Administrator's Office. Without time summaries there is no physical evidence to support the employee's claim for present or future remuneration.

### RECOMMENDATION #10

WE RECOMMEND THE JUDICIAL BRANCH:

- A. ENFORCE ITS POLICY THAT EVERY NON-ELECTED EMPLOYEE SUBMIT A SIGNED AND APPROVED TIME SUMMARY.
- B. MAINTAIN ALL LEAVE RECORDS CENTRALLY.

## COMPLIANCE ISSUES

### Collection of Appellant Fees

Section 3-2-403, MCA, states the Clerk of Court must collect in advance appellant fees for filing the transcript on appeal in any civil case appealed to the Supreme Court. The policy of the Clerk of the Supreme Court's Office is to accept these transcripts and bill for the fees. The audit for fiscal years 1978-79 and 1979-80 recommended that this statute be complied with.

### RECOMMENDATION #11

WE RECOMMEND THE CLERK OF THE SUPREME COURT COMPLY WITH THE STATUTES AND COLLECT APPELLANT FEES IN ADVANCE.

### Timely Deposits

Section 17-6-105(6), MCA, states all moneys shall be deposited each day when the accumulated amount of coin and currency requiring deposit exceeds \$100 or total collections exceed \$500. In any event, all moneys collected shall be deposited at least weekly. MOM sections 2-1210.21 and 2-1210.23 state checks shall be restrictively endorsed and deposited intact.

Revenue collected while the person in charge of recording revenue in the Clerk of Supreme Court's Office is on leave, is placed in various envelopes in a locked box until she returns. The checks are not restrictively endorsed and no collection report is prepared or deposit made until her return.

Deposits for daily collections other than those mentioned above are not being made on a timely basis. We noted that time between deposits range from four to twenty-two days. There is no consideration given to the dollar balances on hand or the length of time since the last deposit.

Application fees for the bar examination are not deposited until applications are accepted by the Supreme Court. These checks are not restrictively endorsed until the collection report is prepared.

Checks received by the State Law Library are not restrictively endorsed upon receipt. When the collection report is prepared and checks are endorsed, the stamp used does not restrictively endorse the checks. We noted that during our audit period receipts were not deposited intact or on a timely basis.

#### RECOMMENDATION #12

WE RECOMMEND THE JUDICIAL BRANCH DEPOSIT COLLECTIONS IN ACCORDANCE WITH STATE LAW.

#### PRIOR REPORT RECOMMENDATIONS

The previous audit report for fiscal years 1978-79 and 1979-80 of the Judicial Branch contained twenty-three audit recommendations. The following table shows the status of implementation of these prior recommendations.

PRIOR AUDIT RECOMMENDATIONS

<u>Area</u>	<u>Implemented</u>	<u>Partially Implemented</u>	<u>Not Implemented</u>	<u>No Longer Applicable</u>	<u>Total</u>
General	6	2	3	5	16
Expenditures	3				3
Payroll	1	2			3
Fixed Assets			1		1
	<u>10</u>	<u>4</u>	<u>4</u>	<u>5</u>	<u>23</u>

The Judicial Branch concurred with 20 of these recommendations, 2 are awaiting legal decisions, and for 1 no response was given.

Prior recommendations partially or not implemented are addressed in various sections of this report.



## AUDITOR'S REPORT AND FINANCIAL STATEMENTS





# Office of the Legislative Auditor

STATE CAPITOL  
HELENA, MONTANA 59620  
406/449-3122



ROBERT R. RINGWOOD  
LEGISLATIVE AUDITOR

DEPUTY LEGISLATIVE AUDITORS:

JAMES H. GILLET  
FINANCIAL/COMPLIANCE  
AND CONTRACTED AUDITS

SCOTT A. SEACAT  
PERFORMANCE/SUNSET AUDITS

STAFF LEGAL COUNSEL  
JOHN W. NORTHEY

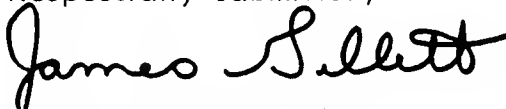
The Legislative Audit Committee  
of the Montana State Legislature:

We have examined the Combined Balance Sheet of the Judicial Branch as of June 30, 1982, and the related Combined Statement of Revenues, Expenditures, and Changes in Fund Balance - Budget and Actual - General and Special Revenue Funds Types for the fiscal years ended June 30, 1981 and 1982. Our examination was made in accordance with generally accepted governmental auditing standards, and accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the Judicial Branch as of June 30, 1982, and the results of its operations and the changes in fund balance for the fiscal years ended June 30, 1981 and 1982, in conformity with generally accepted accounting principles which, except for the change, with which we concur, in the method of classifying funds as described in Note 1, have been applied on a consistent basis.

Our examination was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The Schedule of Subgrant Receipts is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James H. Gillett". The signature is fluid and cursive, with the first name "James" being the most prominent part.

James H. Gillett, CPA  
Deputy Legislative Auditor

September 17, 1982

Approved:

A handwritten signature in black ink, appearing to read "Robert R. Ringwood". The signature is cursive and somewhat stylized, with the first name "Robert" being the most prominent part.

Robert R. Ringwood  
Legislative Auditor

JUDICIAL BRANCH  
COMBINED BALANCE SHEET  
ALL FUNDS AND ACCOUNT GROUPS  
JUNE 30, 1982

	GOVERNMENTAL FUND TYPES		ACCOUNT GROUPS	
	General	Special Revenue	General Fixed Assets	General Long-Term Debt
ASSETS				
Cash on Hand	\$ 508			
Receivables Cash Cutoff	150			
Dishonored Checks	45			
Due From FYE Cash Cutoff	1,844	\$ 1,549		
State Funds	2,312			
FY Advance	2,636			
Equipment			\$127,755	
Appropriation Authority Available to Pay Accrued Expenditures and Payables	216,911			
Amount to be Provided for Payment of Long-Term Debt				\$35,868
Total Assets	<u>\$224,406</u>	<u>\$ 1,549</u>	<u>\$127,755</u>	<u>\$35,868</u>
LIABILITIES AND FUND EQUITY				
Accounts Payable	\$163,693	\$ 9,729		
Accrued Expenditures	52,126	190		
Due to FYE Cash Cutoff	3,274	120		
Due to State Fund	5,313			
Accountability for Lease Liability for Fixed Assets				\$35,868
Total Liabilities	<u>224,406</u>	<u>10,039</u>		<u>35,868</u>
Investment in Fixed Assets			\$127,755	
Fund Balance	<u>-0-</u>	<u>(8,490)</u>	<u>-0-</u>	<u>-0-</u>
Total Liabilities and Fund Equity	<u>\$224,406</u>	<u>\$ 1,549</u>	<u>\$127,755</u>	<u>\$35,868</u>

The notes to the financial statements are an integral part of this statement.



JUDICIAL BRANCH  
 COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND  
 CHANGES IN FUND BALANCE - BUDGET AND ACTUAL  
 GENERAL AND SPECIAL REVENUE FUND TYPES  
 FOR THE FISCAL YEAR ENDED JUNE 30, 1982

	GENERAL FUND			SPECIAL REVENUE FUND		
	<u>Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>	<u>Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
REVENUES:						
License & Permits	\$ 38,780	\$ 23,881	\$(14,899)			
Service Fees	309,000	506,775	197,775			
Rentals, Leases, & Royalties	700	815	115			
Federal Assistance				\$ 40,694		\$(40,694)
Total Revenues	<u>348,480</u>	<u>531,471</u>	<u>182,991</u>	<u>40,694</u>		<u>(40,694)</u>
EXPENDITURES:						
Supreme Court Operations	1,145,113	1,441,444	(296,331)			
Boards and Commissions	149,427	149,001	426			
Law Library	289,469	292,007	(2,538)			
District Court Operations	1,659,032	1,658,992	40			
Water Court Operations				235,522	\$119,711	115,811
Total Expenditures	<u>3,243,041</u>	<u>3,541,444</u>	<u>(298,403)</u>	<u>235,522</u>	<u>119,711</u>	<u>115,811</u>
EXCESS OF CURRENT REVENUES OVER (UNDER) CURRENT EXPENDITURES	(2,894,561)	(3,009,973)	(115,412)	(194,828)	(119,711)	75,117
OTHER FINANCING SOURCES (USES):						
Prior Year Adjustments	213	213	-0-	111	111	-0-
Support From (To) General Fund	2,894,348	3,009,760	115,412			
Transfer From Other Funds				235,522	111,221	(124,301)
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER SOURCES (USES)	-0-	-0-	-0-	40,805	(8,379)	(49,184)
FUND BALANCE JULY 1, 1981	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>(111)</u>	<u>(111)</u>	<u>-0-</u>
FUND BALANCE JUNE 30, 1982	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ 40,694</u>	<u>\$ (8,490)</u>	<u>\$(49,184)</u>

The notes to the financial statements are an integral part of this statement.



JUDICIAL BRANCH  
COMBINED STATEMENT OF REVENUES, EXPENDITURES, AND  
CHANGES IN FUND BALANCE - BUDGET AND ACTUAL  
GENERAL AND SPECIAL REVENUE FUND TYPES  
FOR THE FISCAL YEAR ENDED JUNE 30, 1981

	GENERAL FUND			SPECIAL REVENUE FUND		
	<u>Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>	<u>Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
REVENUES:						
Service Fees	\$ 781,360	\$ 530,195	\$(251,165)			
Rentals, Leases, & Royalties	600	722	122			
Federal Assistance				\$101,138	\$76,565	\$(24,573)
Total Revenues	<u>781,960</u>	<u>530,917</u>	<u>(251,043)</u>	<u>101,138</u>	<u>76,565</u>	<u>(24,573)</u>
EXPENDITURES:						
Supreme Court Operations	873,043	1,151,553	(278,510)	50,564	43,836	6,728
Boards and Commissions	105,639	105,636	3	27,002	9,268	17,734
Law Library	189,361	193,188	(3,827)			
District Court Operations	1,494,048	1,494,044	4	15,326	15,326	-0-
Total Expenditures	<u>2,662,091</u>	<u>2,944,421</u>	<u>(282,330)</u>	<u>92,892</u>	<u>68,430</u>	<u>24,462</u>
EXCESS OF CURRENT REVENUES OVER (UNDER) CURRENT EXPENDITURES	(1,880,131)	(2,413,504)	(533,373)	8,246	8,135	111
OTHER FINANCING SOURCES (USES):						
Prior Year Adjustments	419,490	419,490	-0-	7	7	
Support From (To) General Fund	<u>1,460,641</u>	<u>1,994,014</u>	<u>533,373</u>			
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER SOURCES (USES)	-0-	-0-	-0-	8,253	8,142	111
FUND BALANCE JULY 1, 1980	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>(8,253)</u>	<u>(8,253)</u>	<u>-0-</u>
FUND BALANCE JUNE 30, 1981	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ (111)</u>	<u>\$ 111</u>

The notes to the financial statements are an integral part of this statement.





## JUDICIAL BRANCH

### NOTES TO THE FINANCIAL STATEMENTS

#### FISCAL YEARS ENDED JUNE 30, 1981 AND 1982

##### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The preceding financial statements were prepared from the Statewide Budgeting and Accounting System (SBAS). The financial statements report the activity of the Judicial Branch.

##### Basis of Accounting

The state of Montana utilizes the modified accrual basis of accounting. Under the modified accrual basis of accounting, expenditures are recorded when a valid obligation is incurred and revenues are recorded when received in cash unless susceptible to accrual. Revenues are susceptible to accrual if 1) they are measurable and available to finance expenditures of the fiscal period, or 2) are material in amount and are not received at the normal time of receipt.

##### Fund Accounting System

The accounts of the state of Montana are, by statute, organized into a fund structure listed in section 17-2-102 (temporary), MCA, and for fiscal years 1981 and 1982 accounting transactions for the department were recorded on the basis of that structure. However, the financial statement presentation is made on the basis of section 17-2-102 (effective July 1, 1983) of the codes.

These funds have been reclassified according to the recommended format established by the National Council on Governmental Accounting (NCGA), Governmental Accounting and Financial Reporting Principles, Statement 1.

#### -Governmental Funds-

General Fund - to account for all moneys except those moneys required to be accounted for in another fund. General Fund moneys deposited in the state treasury are available to defray the costs of state government.

Special Revenue Fund - to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. Special revenue funds include the Earmarked Revenue Fund and the Federal and Private Revenue Fund.

#### -Account Groups-

General Fixed Assets account group - reflects the historical cost of all fixed assets with a value of \$200 or more.

Long-Term Debt account group - includes amounts for long-term lease agreements.

#### Inventories

There is no recorded asset for supplies inventory. Supplies are expensed at the time of purchase.

#### Vacation and Sick Leave

Expenditures are not recorded for annual vacation and sick leave costs until the leave is taken. Permanent employees are allowed to accumulate and carryover a maximum of two times their annual accumulation of vacation into the first 90 days of a new calendar year. Upon termination, qualifying employees having unused accumulated vacation and sick leave receive 100 percent payment for vacation and 25 percent payment for sick leave. The liability amount associated with unused accumulated vacation and sick leave at June 30, 1982 is maintained on an hourly basis rather than by dollar amount. The monetary liability is not calculated until an employee terminates.

## Employees' Retirement Systems

Employees are covered by the Public Employees' Retirement System (PERS) and the Montana Judges' Retirement System (MJRS). The state contributes an amount equal to 6.32 percent and 26 percent of an employee's gross wages to PERS and MJRS, respectively. During fiscal year 1981 and 1982, contributions to MJRS from fees collected by the Clerk of the Supreme Court's Office amounted to approximately 1 percent of gross employee wages. The employees covered by each system contribute 6 percent.

Total pension contributions during fiscal year 1980-81 were \$30,377 to PERS and \$442,417 to MJRS. Fiscal year 1981-82 contributions were \$41,881 and \$489,409 to PERS and MJRS, respectively.

The state's policy is to fund accrued pension costs. At June 30, 1982 the Public Employees' Retirement System was actuarially sound. The unfunded past service costs and the actuarially computed value of vested benefits for employees of the Judicial Branch cannot be separated from those amounts computed for the Public Employees' Retirement System taken as a whole.

For the MJRS the state is not providing adequate funding to amortize the past service costs over a period of 40 years. As determined by the system's actuary, the MJRS was actuarially unsound at June 30, 1982. The unfunded liability for the Montana Judges' Retirement System at June 30, 1982, as determined by an actuarial valuation, was \$5,561,446. This unfunded liability compares with the \$4,221,166 unfunded liability at June 30, 1980. To

determine the amount of the unfunded liability the actuary considered the present value of accumulated plan benefits, future normal costs, and net assets. A comparison of accumulated plan benefits and plan net assets for the MJRS are presented below:

	June 30	
	<u>1982</u>	<u>1980</u>
Actuarial present value of accumulated plan benefits	<u>\$13,650,012</u>	<u>\$10,042,911</u>
Net Assets Available for Benefits	<u>\$ 3,908,270</u>	<u>\$ 2,769,292</u>

A rate of 7 percent per annum was assumed in determining present values.

## 2. BUDGETARY REPORTING

The annual appropriations process for planning and controlling financial operations is set for each fiscal year of the biennium by the Legislature. At each fiscal year-end, the General Fund and Special Revenue Fund appropriations revert to the fund of original appropriation. The reverted amount may be spent in the subsequent year for valid prior year obligations.

Budget amendments may be obtained to spend funds that were not available for consideration by the Legislature but have become available from sources other than the state's General Fund or Federal Revenue Sharing moneys.

Appropriations were established within the following areas:

1. Supreme Court Operations;
2. Boards and Commissions;
3. Law Library;

4. District Court Operations; and

5. Water Courts Supervision.

3. UNFAVORABLE BALANCES IN SUPREME COURT OPERATIONS

Revenue and expenditures in the Combined Statements of Revenues, Expenditures, and Changes in Fund Balance - Budget and Actual for both fiscal year 1980-81 and 1981-82 have been adjusted for revenues received from the County Treasurer's Offices for District Court fees that were deposited directly to MJRS. Revenue and expenditures were also adjusted for fees deposited to MJRS from the Clerk of the Supreme Court's Office. Appropriations were not budgeted nor revenues estimated for these amounts because state statute is worded so that the revenues from and pension costs incurred in these transactions are not recorded by the Judicial Branch.

4. INSURANCE

The department is insured by the state of Montana's Self-Insurance Liability Plan administered by the Department of Administration.

5. LEASES

The Judicial Branch leases a data processing terminal classified as an operating lease. The lease term terminates in fiscal year 1984. Lease rentals are recorded as expenditures over the lease term as they become payable. Commitments under lease agreements, classified as operating leases, provided for the following minimum lease payments:

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Amount</u>
1983	\$2,580
1984	<u>1,290</u>
	<u>\$3,870</u>

A word processor is being leased by the Judicial Branch and has been classified as a capital lease. The liability for the lease has been included in the financial statements with an appropriate entry in the amount of fixed assets. Commitments under lease agreements, classified as capital leases, provided the following minimum lease payments:

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Amount</u>
1983	\$14,347
1984	14,347
1985	<u>7,174</u>
	<u>\$35,868</u>

JUDICIAL BRANCH  
SCHEDULE OF SUBGRANT RECEIPTS  
FISCAL YEARS ENDING JUNE 30, 1981 AND 1982

<u>Board of Crime Control</u>	<u>Grant Numbers</u>	<u>Fiscal Year 1980-81 Receipts</u>	<u>Fiscal Year 1981-82 Receipts</u>
Information System Phase III	80-65117	\$ 5,000	\$16,121
Judicial Training V	80-65118	13,244	4,256
Jury Instruction Rules	80-65133	12,604	500
1980 Judicial Planning Council	80-PF-AX-0030	24,840	
Grand Total		<u>\$55,688</u>	<u>\$20,877</u>

Footnote: The audit of the Judicial Branch included tests of grant expenditures to determine cost allowability under federal regulations. The audit for compliance with grant requirements or certain federal laws and regulations was performed in a separate audit of the Board of Crime Control.





AGENCY RESPONSE





THE SUPREME COURT OF MONTANA

STATE CAPITOL  
HELENA, MONTANA 59620  
TELEPHONE (406) 449-2626

FRANK I. HASWELL  
CHIEF JUSTICE  
JOHN C. HARRISON  
GENE B. DALY  
DANIEL J. SHEA  
JOHN C. SHEEHY  
FRANK B. MORRISON  
FRED J. WEBER  
JUSTICES

November 23, 1982

Mr. Robert R. Ringwood  
Legislative Auditor  
Room 135 State Capitol  
Helena, MT 59620

Dear Mr. Ringwood:

As requested by your November 9, 1982, letter, attached is our response to the report on the audit of the Judicial Branch.

We are also ready to meet with the Audit Committee at their convenience in order to provide any other information that may be desired.

If anything further is needed, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Abley".

Mike Abley  
Court Administrator

MA/cr  
Enc.

10/7/82

SUPREME COURT REPLY  
TO AUDIT REPORT OF JUNE 30, 1982 MONTANA LEGISLATIVE AUDITOR

- #1. We concur. We have requested that the director of the PERD make a presentation at the Montana Judges Association meeting scheduled for November 17, 18, and 19, 1982. At this time a decision will be made as to specific proposals to be made to the 1983 legislature. Tentatively those proposals will entail earmarking sufficient funds from the district court fees to cover the necessary amount.
- #2. We do not disagree with this recommendation, and should the legislature choose to amend the statutes, we will amend our procedures accordingly.
- #3. We concur. This error resulted from a misunderstanding of MCA's 3-2-403 and 37-61-205. Hereafter all fees will be distributed correctly and the recommended transfer will be made.
- #4.
- #5. We concur. That evaluation has already taken place and specific recommendations presented to the Court. We are now conducting negotiations which should eliminate this concern.
- #6. We recommend that the statutes be changed in such a way as to permit some flexibility in setting the bar exam fee. This would allow the Court to increase or decrease the fee if the need again arises.
- #7. At the time of the audit we were in the process of recording our fixed assets on PAM's. That has now been completed except for the new furnishings acquired for the Justice Building. Those furnishings once formally turned over to the Court will also be recorded. With the move to the new building now complete we will attempt to track the location of all equipment.
- #8. The recommended procedures will be established.
- #9. We have delegated the responsibility for verifying the accuracy of these records in accordance with the recommendation.

- #10. The deputy clerk is now submitting the time sheets according to the established procedures and his leave records have been transferred to the payroll clerk. All time summaries will hereafter be handled in the appropriate manner, including those of the Supreme Court Clerk's office.
- #11. Appellant fees will be collected in compliance with MCA 3-2-403.
- #12. New procedures will be established in the Clerk of the Supreme Court's office that will insure deposits of these funds. The endorsement will also be changed as recommended.





